

[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

No. 07-14464

FILED U.S. COURT OF APPEALS ELEVENTH CIRCUIT JANUARY 26, 2009 THOMAS K. KAHN CLERK

D. C. Docket No. 06-81133 CV-ASG,
BKCY No. 03-32158-BKC-PG

JAMES F. WALKER,

Debtor,

JAMES F. WALKER,
GARY J. ROTELLA & ASSOCIATES, P.A.,

Plaintiffs-Appellants,

GARY J. ROTELLA & ASSOCIATES,
ESQ. GARY J. ROTELLA,

Plaintiffs,

versus

SUSAN LUNDBORG,

Defendant-Appellee.

Appeal from the United States District Court
for the Southern District of Florida

(January 26, 2009)

Before DUBINA and CARNES, Circuit Judges, and RESTANI,* Judge.

PER CURIAM:

This is an appeal from the district court's order affirming three orders of the bankruptcy court.

The issues presented on appeal are:

(1) Whether the district court erred in affirming the bankruptcy court's dismissal of the stay sanctions motion and motion to strike for lack of standing, mootness, failure to state cognizable claims, or in affirming the bankruptcy court's decision not to exercise its discretion to award Walker sanctions.

(2) Whether the district court erred in concluding that the bankruptcy court did not abuse its discretion in denying appellants' Rule 60(b) motion to amend the final nonappealable sale order.

*Honorable Jane Restani, United States Court of International Trade Chief Judge, sitting by designation.

(3) Whether the district court erred in affirming the bankruptcy court's dismissal of the appellants' amended complaint based upon res judicata, law of the case, lack of standing, and mootness.

Findings of fact should not be set aside unless clearly erroneous. *Nordberg v. Arab Banking Corp. (In re Chase & Sanborn Corp.)*, 904 F.2d 588, 593 (11th Cir. 1990). Conclusions of law and mixed issues of law and fact are all subject to *de novo* review. *Id.*

Sanctions orders are reviewed under the abuse of discretion standard. *Glatter v. Mroz*, 65 F.3d 1567, 1571 (11th Cir. 1995). Denial of a Rule 60(b) motion is reviewed for abuse of discretion. *Gonzalez v. Sec'y for the Dep't of Corr.*, 366 F.3d 1253, 1270–71 (11th Cir. 2004).

After reviewing the record, reading the parties' briefs, and having the benefit of oral argument, we affirm the district court's order affirming the three orders of the bankruptcy court.

We agree with the district court that the bankruptcy court properly applied the law in all three of its orders and did not abuse its discretion in its dismissal of the stay sanctions motion and the motion to strike or in its denial of the Rule 60(b) motion.

Because we also agree with the district court and the bankruptcy court that this case has been overly litigated, and because we conclude this appeal is frivolous, we sanction appellants by awarding attorneys' fees to opposing counsel and taxing double costs against appellants for the appeal.

We remand this case to the district court to determine the amount of attorneys' fees to be awarded.

AFFIRMED and REMANDED.¹

¹All pending motions are denied as moot.